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6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF WASHINGTON
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JOHN R. CHAVERS,

9 Plaintiff,

NO. CV-12-5008-CI

10 v.

11 DONALD HOLBROOK, et al.,

12 Defendants.

13 ORDER DENYING MOTION TO COMPEL
14 DOCUMENTS, MOTION FOR APPOINTMENT
15 OF COUNSEL, REQUEST FOR CHANGE OF
16 VENUE, AND MOTION FOR COURT TO
17 DELIVER SUBPOENAS AND CONTACT
18 WITNESSES

19 BEFORE THE COURT is Plaintiff's Motion to Compel Documents,
20 Request for Change of Venue, renewed Motion for appointment of
21 counsel, and Motion for court to deliver subpoenas and contact
22 witnesses. ECF No. 52, 53, 61, 62. Plaintiff, who appears *pro se*,
is a prisoner at the Washington State Penitentiary; Defendants are
represented by Assistant Attorney General Kevin Elliot. Plaintiff's
Motions were consolidated and heard without oral argument on March
4, 2013. Ecf No. 64. The parties have not consented to
proceedings before a magistrate judge.

23 **MOTION TO COMPEL DOCUMENTS**

24 Plaintiff asks the court to order Defendants to produce
25 documents requested in a letter sent to Defendants on October 24,
26 2012. ECF No. 42. Defendants respond they have responded
adequately to Plaintiff's request for documents, and have provided

27
28 ORDER DENYING MOTION TO COMPEL DOCUMENTS, MOTION FOR APPOINTMENT OF
COUNSEL, REQUEST FOR CHANGE OF VENUE, AND MOTION FOR COURT TO
DELIVER SUBPOENAS AND CONTACT WITNESSES - 1

1 copies of the requested documents to Plaintiff, free of charge. ECF
2 No 56 at 1-2. On December 12, 2012, Plaintiff filed another
3 "Request for Documents," asking for documentation of his wage
4 history. It appears the pay and wage documents were requested
5 through the Department of Corrections Public Disclosure Unit. *Id.*
6 At Exhibit 2. Defendants respond all responsive documents in their
7 possession were sent to Plaintiff on or before January 2, 2013. ECF
8 No. 56, Exhibits 1 and 2. Plaintiff does not controvert this
9 representation.

10 Plaintiff has not provided evidence to establish he attempted
11 to confer with Defendants regarding outstanding discovery disputes
12 as required by LR 37.1(b). Because Plaintiff has not complied with
13 LR 37.1(b), and has failed to dispute Defendants' assertion that all
14 documents in their possession were provided or identified with
15 specificity documents that were not provided after January 2, 2013,
16 his Motion to Compel Documents, **ECF NO. 52**, is **DENIED**.

17 **CHANGE OF VENUE**

18 The events alleged in Plaintiff's Complaint took place in
19 Eastern Washington, Defendants are located in Eastern Washington,
20 and Plaintiff is incarcerated in Eastern Washington. Therefore,
21 venue in the Eastern District of Washington is proper. Plaintiff's
22 arguments regarding the unavailability of a neutral jury is without
23 merit, as his conviction took place over 20 years ago, the claims
24 currently before the court involve civil matters, and the likelihood
25 of biased jurors is remote. If Plaintiff's claims survive summary
judgment and the matter goes to trial, Plaintiff may at that time
petition the trial judge for a trial in Richland or Yakima.
28

1 Plaintiff's Request for Change of Venue, ECF No. 53 is DENIED.

2 **APPOINTMENT OF COUNSEL**

3 This court has discretion to designate counsel pursuant to 28
 4 U.S.C. § 1915(e)(1) only under "exceptional circumstances." *Terrell*
 5 *v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991). Plaintiff renews his
 6 request for counsel for the sixth time. This is Plaintiff's sixth
 7 motion for counsel. ECF No. 61, *See also* ECF No. 46. No new facts
 8 are alleged and no change of circumstances exists to justify
 9 appointment of counsel. The fact that the court appointed counsel
 10 in a 2003 motion for reconsideration does not compel appointment of
 11 counsel for these proceedings. *See, e.g.*, E.D. Wa. No. Cause No.
 12 CV-01-5101-RHW, Ct. Rec. 80 at 2, (Plaintiff's complaint dismissed
 13 and court declined to enter a final order regarding Plaintiff's
 14 appointment of counsel). Further, Plaintiff's disagreement with the
 15 undersigned's rulings is not sufficient cause for appointment of
 16 counsel or change of venue. The court's finding of no exceptional
 17 circumstances is based on the application of the legal standard
 18 referenced in prior orders. The file demonstrates Plaintiff has the
 19 ability to present his case effectively without the appointment of
 20 counsel. Plaintiff's renewed request for counsel, ECF No. 61, is
 21 DENIED.

22 **LITIGATION ASSISTANCE**

23 Plaintiff requests the court assist him in litigating this
 24 matter by contacting witnesses and delivering subpoenas on his
 25 behalf. ECF No. 61, 62. Plaintiff cites no authority under the
 26 FEDERAL RULES OF CIVIL PROCEDURE that allows or directs the court to
 27 assist in discovery on behalf of a party. *See, e.g.*, FED. R. Civ. P.

1 45. Although 28 U.S.C. § 1915(d) authorizes officers of the court
2 to serve all process, this authority does not extend to serving
3 deposition subpoenas or contacting witnesses. Accordingly,
4 Plaintiff's Motions for litigation assistance **ECF No. 61, 62**, are
5 **DENIED**.

CONCLUSION

1. Plaintiff's Motion to Compel Documents, ECF No. 52, is
DENIED.

9 2. Plaintiff's Request for Change of Venue, **ECF No. 53**, is
10 **DENIED.**

11 3. Plaintiff's renewed Motion for Appointment of Counsel, ECF
12 No. 61, is DENIED.

13 4. Plaintiff's Motions for assistance in litigations, ECF No.
14 61, 62, are DENIED.

15 5. Hearing on Defendants' Motion for Summary Judgment remains
16 set for hearing on **May 13, 2013**, without oral argument.

17 The District Court Executive is directed to enter this Order
18 and forward a copy to the parties.

19 DATED April 18 2013

S/ CYNTHIA IMBROGNO
UNITED STATES MAGISTRATE JUDGE